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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/687,385

10/16/2003

DeQuan Yu

10541-1839

2129

28866

7590

07/07/2006

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
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TOLEDO, OH 43604

EXAMINER

MILLER, CARL STUART

ART UNIT

PAPER NUMBER

3747

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/687,385	Applicant(s) YU ET AL.	
	Examiner Carl S. Miller	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-7 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minagawa ('797) in view of Powell.

Powell teaches the basic structure of applicant's system including a relief valve that produces a fuel pressure that remains relatively constant. The fuel pump produces fuel pressure that is relatively constant since it runs at a constant speed as a result of being fed by a constant voltage. Since the pressure regulator disclosed by applicant appears to be no different from those suggested by Powell, it is not clear how applicant's regulator would be more responsive to engine demand than that of Powell.

Minagawa clearly teaches a fuel system that uses an electrically driven pump and a non-return rail. Instead of using a fuel pressure sensor to determine fuel pressure Minagawa estimates the fuel pressure using flow rates and then sets the injector width based upon the estimated fuel pressure (See column 4, lines 27-30). The flow rates that are used are based upon engine demand in that they are proportional to the current rates to the pump that are, in turn, set by engine demand.

It would have been obvious to modify Minagawa by using the method of Powell to supply fuel pressure to the rail because both systems were non-return fuel rails systems being fed fuel by electrically driven pumps.

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Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minagawa and Powell as applied to claims 1 and 6 above, and further in view of Gaskins.

Gaskins teaches the use of look-up tables to store input and output data for the control of electric pumps feeding a common rail fuel system.

It would have been obvious to use the tables of Gaskins to store the demand data used in Minagawa because the two references were using similar electric pumps in the same environment.

Applicant's arguments filed April 14, 2006 have been fully considered but they are not persuasive.

The applicants argue that the examiner's rejection of the claims is improper because the pressure regulator used in Powell is inferior to the regulator used in their device. As evidence of this inferiority they point to their own disclosure to prove that the diaphragm regulator of Powell will not operate as does their regulator. The particular regulating valve is disclosed in applicants' recently disclosed U. S. Patent No. 6,953,026. In that disclosure the applicants state that their valve achieves a linear relationship between the fuel flow rate and the fuel pressure. At the same time applicants are claiming that their pump rate is constant so the pump pressure must also be constant. Minagawa clearly teaches a constant rate verses pressure curve and the Powell disclosure teaches a constant rate. Finally, the applicant will note that the Powell regulator is also a spring-biased regulator and therefore would respond in a manner similar to that of the applicants' regulator.

Minagawa has, of course, been used to show that it was known in the art to estimate the fuel pressure of the system in order to calculate accurately the pulse width to the injectors and the fact that Minagawa also varies the pressure to the injectors simply means that the system is more sophisticated than the applicants' system. If Minagawa were to hold his pressure constant (which is clearly taught by Powell) the system would operate as does that of the applicants' system.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl S. Miller whose telephone number is 571-272-4849. The examiner can normally be reached on MTWTHF.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Cronin, can be reached at 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carl S. Miller
Primary Examiner